

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHAD E.ST. CLAIR)	
)	
Plaintiff)	Civil Action No. 2:22-cv-00049
)	
v.)	
)	
PRIMECARE MEDICAL and)	
JOHN DOE)	Magistrate Judge Lenihan
)	
Defendants.)	ECF Nos. 32, 34 & 54

MEMORANDUM ORDER

This civil action was commenced on January 10, 2022, when Plaintiff Chad E. St. Clair filed a Motion for Leave to Proceed in Forma Pauperis. ECF No. 1. The Motion was granted on January 11, 2022 (ECF No. 4) and the Complaint was docketed by the Clerk of Court on January 12, 2022. ECF No. 5. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (ECF No. 54), filed on August 3, 2022, recommended that the Motion to Strike Certificate of Merit (ECF No. 32) filed by PrimeCare Medical be granted, and that pursuant to Pennsylvania Rule of Civil Procedure 1042.8, Plaintiff be granted leave to file a certificate of merit which cures the defect discussed in the Report and Recommendation within 20 days after the District Court's adoption of the Report and Recommendation. It was further recommended that the Motion to Dismiss for Failure to State a Claim (ECF No. 34) filed by PrimeCare Medical be granted in part and denied in part. It recommended that it be granted with prejudice as to Plaintiff's Eighth Amendment claim for

deliberate indifference to serious medical needs as to PrimeCare and denied as to Plaintiff's state law claim for medical negligence. It was further recommended that Plaintiff be given leave to amend his complaint to include specific employees at PrimeCare in their individual capacities only, who were involved in the alleged deliberate indifference to his serious medical needs as described in the Report and Recommendation.

The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections, and that unregistered ECF users were given an additional three (3) days pursuant to Federal Rule of Civil Procedure 6(d). Objections for registered users were due on August 17, 2022. Objections for unregistered ECF Users were due by August 22, 2022. ECF No. 54. As a precaution, Plaintiff filed objections on August 17, 2022 (ECF No. 59) indicating that he agrees with the Court's Report and Recommendation but filed the objections to preserve his right to appeal. *Id.* The Defendants filed no objections.

Importantly, one day after the Court filed its Report and Recommendation, the undersigned Magistrate Judge received full consent from the parties to proceed before this United States Magistrate Judge. (ECF No. 55).

AND NOW, this 1st day of September 2022,

IT IS HEREBY ORDERED that the Motion to Strike Certificate of Merit (ECF No. 32) filed by PrimeCare Medical is **GRANTED**, and that pursuant to Pennsylvania Rule of Civil Procedure 1042.8, Plaintiff is granted leave to file a certificate of merit which cures the defect discussed in the Report and Recommendation by **September 22, 2022**.

IT IS FURTHER ORDERED that the Motion to Dismiss for Failure to State a Claim (ECF No. 34) filed by PrimeCare Medical is **GRANTED IN PART AND DENIED IN PART**.

The motion is **GRANTED WITH PREJUDICE** as to Plaintiff's Eighth Amendment claim for deliberate indifference to serious medical needs as to PrimeCare. The motion is **DENIED** as to Plaintiff's state law claim for medical negligence.

IT IS FURTHER ORDERED that Plaintiff is **GRANTED LEAVE TO AMEND HIS COMPLAINT by October 3, 2022**, to include specific employees at PrimeCare in their individual capacities only, who were involved in the alleged deliberate indifference to his serious medical needs as described in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court's Report and Recommendation (ECF No. 54) dated August 3, 2022, is the Opinion of the Court.

BY THE COURT



Lisa Pupo Lenihan
UNITED STATES MAGISTRATE JUDGE

cc: Chad E. St. Clair
QK8396
SCI-Laurel Highlands
5706 Glades Pike
P.O. Box 631
Somerset, PA 15501